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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/760,975 | 01/16/2001 | Roy Frank Brabson | 5577-217 | 4362 |
| 20792 | 7590 | 11/17/2004 | EXAMINER | |
| MYERS BIGEL SIBLEY & SAJOVEC | | | HU, JINSONG | |
| PO BOX 37428 | | | ART UNIT | |
| RALEIGH, NC 27627 | | | PAPER NUMBER | |

2154

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/760,975

Applicant(s)

BRABSON ET AL.

Examiner

Jinsong Hu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/6/04; 7/16/04 6
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

1. Claims 1-35 are presented for examination. Claims 1, 27, 32 and 34 have been amended.
2. Citation item 16-30 in the 1449 form cited by applicant on 7/6/04, are not be considered because there are no copies of these non patent references. To insure proper consideration and to the extent required by 37 CFR 1.56, applicant is required to supply a copy of the publication reference (non patent) cited in the 1449 form because it is not readily available to the examiner.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Arunachalam et al. (US 6,631,122).

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5. As per claims 1-2 and 9-13, Arunachalam teaches the invention as claimed including a method for providing transactional quality of service [col. 1, lines 7-13], the method comprising the steps of:

providing transaction service level information for a data transmission transaction to a communication process executing on a data processing system from an application executing on the data processing system requesting the data transmission transaction, wherein the transaction service level information is provided separate from data for the data transmission transaction [col. 4, line 52 – col. 5, line 35; col. 6, lines 1-3 & 13-14; col. 8, lines 29 - 53; col. 11, lines 8-11]; and

determining a quality of service level associated with the data transmission transaction based on the transaction service level information received by the communication process from the application [col. 6, lines 1-3; col. 7, lines 60-63].

6. As per claims 3-5, Arunachalam teaches the step of incorporating into at least one header of at least one of the data transmissions an indicator of quality of service for the at least one of the data transmissions [col. 6, lines 13-14; col. 7, lines 60-63].

7. As per claims 6-8, Arunachalam teaches the data transmissions associated with the data transmission transaction are data transmissions transmitting data provided with a request from the application for the data transmission transaction [col. 4, lines 1-15].

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8. As per claims 14-16, Arunachalam teaches the steps of determining if a response associated with the data transmission transaction is received by the communication process and allocating resources of a data processing system associated with the communication process to process the received response utilizing a quality of service level based on the determined quality of service of the data transmission transaction established for the data transmissions associated with the received response [col. 11, lines 39-54].

9. As per clam 17, Arunachalam teaches the step of allocating resources of the data processing system is different from the determined quality of service [col. 11, lines 23-30].

10. As per claims 18-20, Arunachalam teaches the step of determining a quality of service level comprises the steps of determining if the transaction service level includes an identification of a predefined quality of service level and utilizing the predefined quality of service level as the determined quality of service level if the transaction service level includes an identification of the predefined quality of service level [col. 11, lines 8-11].

11. As per claims 21 and 22, Arunachalam teaches the communication process comprises a TCP/IP kernel and a communication protocol stack [Fig. 10 B; col. 12, line 62 – col. 13, line 10].

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12. As per claims 23-26, Arunachalam teaches the invention as claimed including a method for establishing a quality of service level for the transmission of data, comprising:

providing an application program interface to a communications process which both receives data to be transmitted by the communication process and receives quality of service information associated with the data to be transmitted so as to establish the quality of service level for the transmission of the received data without reference to the contents of the received data to be transmitted [col. 4, lines 60-63; col. 6, lines 1-3 & 13-14; col. 7, lines 60-63; col. 11, lines 8-11].

13. As per claims 27-31, since they are system claims of claims 1, 14, 19 and 21-22, they are rejected for the same basis as claims 1, 14, 19 and 21-22 above.

14. As per claims 32 and 34, since they are apparatus and computer program claims of claim 1, they are rejected for the same basis as claim 1 above.

15. As per claims 33 and 35, since they are system and computer program claims of claim 23, they are rejected for the same basis as claim 23 above.

Conclusion

16. Applicant's arguments filed on 8/31/04 for claims 1-37 have been fully considered but they are not deemed to be persuasive.

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17. In the remarks, applicant argued in substance that (1) Arunachalam does not teaches an application and a communication process executing on the same data processing system where the application provides transaction service level information for a data transaction to the communication process separate from the data transmission transaction; (2) Arunachalam does not disclose that a Qos is determined based on transaction service level information received from the application; (3) Arunachalam does not teach an API for providing data and Qos information associated with the data to a communication process; (4) Arunachalam does not discloses the specific configuration of the communication process circuit.

18. Examiner respectfully traverses applicant's remarks:

A. As to points (1) and (2), applicant fails to consider the teaching of the Arunachalam's reference for negotiating and mapping services classes based on Service Level Agreement by wireless Qos agent, i.e., providing provides transaction service level information for a data transaction to the communication process separate from the data transmission transaction by a application [col. 8, lines 29-53].

Furthermore, the application and communication process executed on a same processing system [col. 4, lines 34- 45]. Thus, Arunachalam does teach the limitations in claims 1-22.

B. As to point 3, applicant fails to consider the teaching of the Arunachalam's reference for providing data and Qos information associated with the data to a communication process by service request interface [col. 5, lines 40-67]. Thus,

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Arunachalam does teach an API for providing data and Qos information associated with the data to a communication process.

C. As to point 4, applicant fails to consider the teaching of the Arunachalam's reference for a specific communication process circuit configuration for providing service to users based on service level [col. 5, lines 17-35]. Thus, Arunachalam does teach the limitations in claims 27-31.

Accordingly, Arunachalam teaches the limitations in claims 32-35 as discussed above. Arunachalam is a relevant prior art reference.

19. THIS ACTION IS MADE FINAL. See MPEP §706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

20. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jinsong Hu whose telephone number is (571) 272-3965.

The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A. Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jinsong Hu

November 12, 2004



VIET D. VU
PRIMARY EXAMINER